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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,259	06/03/2002	Monica Palacios-Boyce	4590-102 US	5055
7590	06/24/2005			
Diane Dunn McKay Mathews Collins Shepherd & Gould Suite 306 100 Thanet Circle Princeton, NJ 08540			EXAMINER REDDING, DAVID A	
			ART UNIT 1744	PAPER NUMBER
DATE MAILED: 06/24/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/031,259	Applicant(s) PALACIOS-BOYCE, MONICA	
	Examiner David A. Redding	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-112 and 114-138 is/are pending in the application.
- 4a) Of the above claim(s) 1-103 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 112, 127 and 128 is/are allowed.
- 6) ☒ Claim(s) 104-110 and 126 is/are rejected.
- 7) ☒ Claim(s) 1, 111, 114-125 and 129-138 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/21/2002</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of claims 104-112,113-138 in the reply filed on 4/6/2005 is acknowledged. The traversal is on the ground(s) that the search for group VII claims would cover the search for all of the other groups. This is not found persuasive because for example the search for the device to labels cell (group I) would not overlap the search for the elected claims.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Objections***

Claims 104-111,114-125,129,130-138, are objected to because of the following informalities: line 2, "element" lacks antecedent basis in claim 104; line 2, "hollow protuberance" lacks antecedent basis in claim 105; claim 109 is improperly dependent upon claim 107, should be claim 108; in the preamble of claim 11, "MEMS device Kit" lacks antecedent basis; in claim 114, step (f), "mask (i) lacks antecedent basis, and in step (h), "mask (k)" lacks antecedent basis; claim 115, line 2, delete second "comprising" and "the device" lacks antecedent basis; claim 116 and 117 there appears to be a typing error in lines 6-7; claim 118 and 120 are improperly dependent upon claim 116, should be 117; line 3 of claim 121 is a typo in the first word; also claim 121 is dependent upon a non-elected claim, the limitations of the dependent claim should be copied into claim 121; typo in step (e) of claim 125; "array" lacks antecedent basis in claim 129; "device" (step a) lacks antecedent basis in claim 130; "cell culture device"

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lacks antecedent basis in claim 132; claims 135 and 135 are improperly dependent upon higher numbered claims . Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 104-110, rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 104 it is indefinite as to the structural relationship of the elements of the claims.

In claim 107, the claims specifies two substrates ?

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 126 is rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,320,808 (Holen et al.).

Figure 2 shows a centrifugal platter having a central orifice for connection to a centrifugal drive and a plurality of ports which are considered to be capable of holding a MEMS device.

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***Allowable Subject Matter***

Claims 112,127, and 128 are allowable over the prior art of record.

Claims 104,111,114,115,117,121,130,133 would be allowable if rewritten or amended to overcome the objections and/or rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 105-110,116-125,129,131,132,134-138 would be allowable if rewritten to overcome the objections and/or rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Redding whose telephone number is 571-272-1276. The examiner can normally be reached on Mon.-Fri. 6:00 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on 571-272-9178. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David A Redding  
Primary Examiner  
Art Unit 1744

DAR